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January 3, 2019

Via ECF

The Honorable Kevin McNulty
United States District Judge
District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, New Jersey 07101

Re: *Keller v. Ashton, et al. – Galena Biopharma, Inc., Civil Action No. 17-cv-01777* and
Johnson v. Schwartz et al., Civil Action No. 2:18cv903

Dear Judge McNulty:

We represent Plaintiff Keller in the above-referenced derivative action, No. 17-cv-01777. Pursuant to the request of your Clerk, we write to clarify our request to withdraw a previously filed motion to consolidate found at Docket Entry Nos. 25 and 26. The motion to consolidate concerned this action and a second, later filed derivative action, captioned *Johnson v. Schwartz, et al.*, Civil Action No.:18-cv-00903. The *Johnson* action is brought against many of the same defendants and raises similar issues but focuses on a differently constituted board of directors.

The undersigned's office has conferred with Counsel for Plaintiff Johnson and upon further reflection, both sets of Plaintiffs have agreed that the second derivative action *should not be* consolidated with Plaintiff Keller's derivative action. Defendants will not be prejudiced by the withdrawal of the motion as they have not yet responded to it and in fact have been granted several extensions of time in order to evaluate their position, *see* Docket Entry Nos. 27, 28, 29 and 30.

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Therefore, the Plaintiffs hereby withdraw their Motion to Consolidate (D.E. 25, 26) the two actions in the second later filed action, *Johnson v. Schwartz et al.*, Civil Action No. 2:18cv90 and the motion should be marked withdrawn on both dockets.

Respectfully submitted,

GAINEY McKENNA & EGGLESTON

Barry J. Gainey

cc: All Counsel of Record (via ecf)

Motion (DE7 in 18cv903)
withdrawn + administratively
terminated

SO ORDERED


Kevin McNulty, U.S.D.J.

Date:

1/4/2019